IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS SAN ANTONIO DIVISION

LINDA ALMONTE,	§	
	§	CASE NO. 5:10-cv-00496-FB
Plaintiff,	§	
	§	
	§	
	§	
JP MORGAN CHASE BANK, N.A.,	§	
	§	
	§	
	§	
	§	
Defendants.	§	

PLAINTIFF'S RESPONSE TO DEFENDANT'S OBJECTIONS TO UNITED STATES MAGISTRATE JUDGE PRIMOMO'S MEMORANDUM AND RECOMMENDATIONS

Plaintiff, Linda Almonte ("Almonte" or "Plaintiff"), files her Response to Defendant's Objections to United States Magistrate Judge Primomo's Memorandum and Recommendation. Plaintiff respectfully submits that Defendant's objections should be overruled and Judge Primomo's memorandum and recommendation adopted as this Court's order.

A. Magistrate Judge Primomo correctly determined that Federal Rule of Civil Procedure 9's heightened pleading requirement is not required for Plaintiff to adequately plead a *Sabine-Pilot* claim.

Magistrate Primomo's Memorandum and Recommendation provides clear and rational analysis to support his conclusion that Plaintiff is not held to any heightened pleading standard as she has pled a wrongful termination under the *Sabine-Pilot* Doctrine, and nothing more.

B. Magistrate Judge Primomo's analysis and conclusion that *Lone Star Fund V* (*U.S.*), *L.P.*' v. *Barclays Bank PLC*, 594 F.3d 383 (5th Cir. 2010) is inapplicable to Almonte's *Sabine Pilot* claim is proper

Again, Magistrate Primomo's Memorandum and Recommendation provides clear and rational analysis to support his conclusion that Defendant's reliance on *Barclays* is misplaced.

Therein, he highlights and explains what is obvious and why Defendant cannot rely on *Barclays*– it involved a suit where the plaintiff was alleging fraud and misrepresentation, rather than wrongful termination, as in this case.

C. Magistrate Judge Primomo correctly confirms that Almonte has pled a *Sabine-Pilot* claim.

Finally, Magistrate Primomo concludes his recommendation with nearly a page of detail as to why Plaintiff has sufficiently alleged a claim upon which relief can be granted and Defendant's motion to dismiss be denied. Therein, Magistrate Primomo reminds the reader that the Court is required to accept Plaintiff's allegations as true at this junction in the proceedings. He notes that her pleadings are voluminous and detailed and raise Plaintiff's "right to relief above the speculative level."

Therefore, Plaintiff respectfully requests that the Court overrule Defendants' objections and adopt as this Court's order Judge Primomo's memorandum and recommendation.

Respectfully submitted,

JONES, GILLASPIA & LOYD, L.L.P.

By: /s/ John Bruster Loyd

John Bruster Loyd SBN 24009032 Federal ID No. 23240 1300 Post Oak, Suite 830 Houston, Texas 77056 Telephone (713) 225-90

Telephone (713) 225-9000 Facsimile (713) 225-6126

bruse@jgl-law.com

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of December 2010, I electronically filed the foregoing document with the Clerk of Court using CM/ECF. I also certify that the foregoing is being served this day upon all counsel of record identified either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing, in accordance with the Federal Rules of Civil Procedure.

/s/ John Bruster Loyd

JOHN BRUSTER LOYD